

## **SECTION 4(f) “CHECKLIST”**

This is a recommended guideline for the preparation of Section 4(f) Evaluations. It is not official guidance but it represents best practices.

Draft Section 4(f) Evaluation

Final Section 4(f) Evaluation

EIS/EAs Without A Section 4(F) Use

Attachment A – Description Of Section 4(F) Property(ies)

Attachment B – Park, Recreational Facilities, Wildlife Refuges, And  
Historic Properties Evaluated Relative To The Requirements Of  
Section 4(F)

Attachment C – Section 6(f)

SECTION 4(f) "CHECKLIST"  
DRAFT SECTION 4(f) EVALUATION  
*Revised 7/98*

GENERAL:

- Is the Section 4(f) evaluation contained in a separate section, chapter, or appendix?
- For EISs, is the environmental document entitled "Draft Environmental Impact Statement and Section 4(f) Evaluation" on the EIS title sheet?
- For EAs, is it entitled "Draft Environmental Assessment and Section 4(f) Evaluation"?
- Does the title page include the citation: "Submitted Pursuant to 42 USC 4332(2)(c) and 40 USC 303"?
- Does the introduction to the Section 4(f) evaluation include the following "boiler plate" description of Section 4(f)"

Section 4(f) of the Department of Transportation Act of 1966, codified in Federal law at 49 USC §303, declares that "[i]t is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public part and recreation lands, wildlife and waterfowl refuges, and historic sites."

Section 4(f) specifies that "[t]he Secretary [of Transportation] may approve a transportation program or project...requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if -

- (1) there is no prudent and feasible alternative to using that land; and
- (2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use."

Section 4(f) further requires consultation with the Department of the Interior and, as appropriate, the involved offices of the Departments of Agriculture and Housing and Urban Development in developing transportation projects and programs which use land protected by section 4(f).

In general, a section 4(f) "use" occurs with a DOT-approved project or program when 1) section 4(f) land is permanently

incorporated into a transportation facility; 2) when there is a temporary occupancy of section 4(f) land that is adverse in term of the section 4(f) preservationist purposes as determined by specified criteria (23 CFR §771.135[p][7]); and 3) when section 4(f) land is not incorporated into the transportation project, but the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify a resource for protection under section 4(f) are substantially impaired (constructive use). 23 CFR § 771.135(p)(1) and (2).

- Is “Section 4(f)” listed in the EIS index with correct page numbers?

#### PROPOSED ACTION

- Are the proposed project and the project purpose and need briefly described with the corresponding EIS/EA text discussions properly referenced for additional information?

#### DESCRIPTION OF SECTION 4(f) PROPERTY(IES)

- Does the description of **each** section 4(f) resource which would be used by any alternative include all of the applicable information outlined in [Attachment A](#)?

#### IMPACTS ON THE SECTION 4(F) PROPERTY(IES)

- Does the impact evaluation discussion address the following impact on **each** Section 4(f) property for **each** alternative?
  - The amount of land to be used?
  - The facilities, functions, and/or activities affected?
  - Accessibility?
  - Visual?
  - Noise?
  - Vegetation?
  - Wildlife?
  - Air quality?
  - Water Quality?
- If there is not an impact in one of the above areas, does the evaluation state such with adequate supportive information?
- Does the evaluation include an impact summary table when:
  - (1) more that one Section 4(f) property is involved and
  - (2) such a table would be useful in comparing the various impacts of the alternatives?

## ALTERNATIVES

- Does the Section 4(f) evaluation of alternatives **identify** and **summarize** the alternatives addressed in the EIS/EA and include specific references to those discussions?

*(Detailed discussions of alternatives in an EIS/EA do not need to be repeated in the Section 4(f) portion of the document if they are identified and summarized with specific references to the EIS/EA discussions of alternatives.)*

- Do both the Section 4(f) evaluation and the EIS/EA discussion of alternatives include the same location alternatives?
- Are location alternatives and site-specific design variations which avoid Section 4(f) property(ies) identified and evaluated?
- Does the Section 4(f) evaluation of alternative

Include at least one build alternative which avoids **each** and **all** Section 4(f) resources

or

explain why there are not any such avoidance alternatives with adequate supportive information?

## MEASURES TO MINIMIZE HARM

- Are all possible measures which are available to minimize the impacts to the Section 4(f) property(ies) discussed?

*(Detailed discussions of mitigation measures in the EIS/EA may be referenced and appropriately summarized rather than repeated.)*

- If the Section 4(f) property include lands or facilities developed under section 6(f) of the Land and Water Conservation Fund Act, does the mitigation discussion address the section 6(f) requirements? See [Attachment C](#).

## OTHER PARK, RECREATIONAL FACILITIES, WILDLIFE REFUGES, AND HISTORIC PROPERTIES EVALUATED RELATIVE TO THE REQUIREMENTS OF SECTION 4(f)

This section evaluated other park, recreation facilities, wildlife refuges, and historic sites in the project vicinity that do not involve a Section 4(f) “use”.

It needs to include the information outlined in [Attachment B](#).

This discussion is necessary to explain why some resources or facilities are not protected by provisions of Section 4(f) and to document that any proximity impacts to Section 4(f) resources do not result in a constructive use.

## COORDINATION

- Does the summary discussion of preliminary coordination with the public official having jurisdiction over the Section 4(f) resource address the following:
  - Avoidance alternatives,
  - Impacts to the property,
  - Measures to minimize harm,  
and where necessary,
  - The significance and primary use of the property?
  
- If Section 6(f) lands are involved, does the summary discussion include preliminary coordination with the National Park Service Western Regional Office?

## SECTION 4(f) "CHECKLIST"

### FINAL SECTION 4(f) EVALUATION

- Is the information contained in the draft Section 4(f) evaluation included in the final evaluation with appropriate revisions to reflect comments received on the draft document and many changed conditions, new information, or project refinements?
- Does the final evaluation provide the basis for concluding that there are no feasible and prudent alternatives to the use of Section 4(f) land(s)? *(The supporting information must demonstrate that "there are unique problems of unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes" 23 CFR §771.135(a)(2)).*
- Does the final evaluation provide the basis for concluding that the preferred alternative includes all possible planning to minimize harm to the Section 4(f) property(ies)?
- Does the final evaluation demonstrate that the preferred alternative is the feasible and prudent alternative with the least net harm on the Section 4(f) resources after considering mitigation?
- Does the "Coordination Section" summarize the formal Section 4(f) coordination with the Department of the Interior and, as appropriate, the involved offices of the Departments of Agriculture (usually the Forest Service) and Housing and Urban Development?
- Are copies of the Section 4(f) comments included in the final evaluation, or if contained in the "Draft EIS Comment and Response Section," are they accurately referenced?
- Have each of the Section 4(f) comments received a full and adequate response?

*(Where new alternatives or modifications to existing alternatives are identified and will not be given further consideration, the basis for dismissing the alternatives/modifications needs to be provided and supported by factual information.)*

- Where Section 6(f) land is involved, is the National Park Service's position on the land transfer summarized in the text and documented with a copy of the NPS letter?
- Does the final Section 4(f) evaluation conclude with the following statement?

Based upon the above considerations, there is no feasible and prudent alternative to the use of land from the [names(s) of the Section 4(f) property(ies)] and the proposed action includes all possible planning to minimize harm to the [names(s) of the Section 4(f) property(ies)] resulting from such use.

SECTION 4(f) "CHECKLIST"  
EIS/EAs WITHOUT A SECTION 4(f) USE

All EISs (and EAs only if appropriate) need to include a subsection/subchapter within the Environmental Consequences section/chapter entitled:

"Park, Recreational Facilities, Wildlife Refuges, and Historic Properties Evaluated Relative to the Requirements of Section 4(f)" that addresses the information outlined in [Attachment B](#).

This discussion is necessary to explain why some resources or facilities are not protected by provisions of Section 4(f) and to document that any proximity impacts to Section 4(f) resources do not result in a constructive use.

## SECTION 4(f) "CHECKLIST"

### ATTACHMENT A

#### DESCRIPTION OF SECTION 4(f) PROPERTY(IES)

- A detailed map or drawing of sufficient scale to identify the relationship of the alternatives to the Section 4(f) property.
- Size of the Section 4(f) property (hectares or square meters with acres or square feet following in parenthesis).
- Location of the Section 4(f) property (maps of other exhibits such as photographs and/or sketches).
- Ownership (e.g., private, city, county, State, Federal agency).
- Type of Section 4(f) property (e.g., park, recreation, historic).
- Available activities or function of the property (e.g., ball playing, swimming, golf).
- Description and location of all existing and planned facilities (e.g., ball diamonds, tennis courts).
- Type of access to the property (e.g., pedestrian, vehicular).
- Usage of the Section 4(f) resource (e.g., approximate number of users/visitors).
- Relationship to other similarly used lands in the vicinity.
- Applicable clauses affecting the ownership, such as lease, easement, covenants, restrictions, or conditions, including forfeiture.
- Unusual characteristics of the Section 4(f) property that either reduce or enhance the value of all or part of the property (e.g., flooding problems, terrain conditions, or other features).
- If the Section 4(f) property includes lands or facilities developed under Section 6(f) of the Land and Water Conservation Fund Act, the description of the Section 4(f) resource will need to indicate such. [See Attachment C.](#)



## SECTION 4(f) "CHECKLIST"

### ATTACHMENT B

#### PARK, RECREATIONAL FACILITIES, WILDLIFE REFUGES, AND HISTORIC PROPERTIES EVALUATED RELATIVE TO THE REQUIREMENTS OF SECTION 4(f)

This section evaluates parks, recreational facilities, wildlife refuges, and historic sites in the project vicinity that do not involve a "use" of Section 4(f) land. It describes each resource and then either: 1) explains why it is not protected by Section 4(f), or 2) demonstrates that the proximity impacts do not rise to a level that substantially impairs the activities, features, or attributes that qualified the resource for protection under Section 4(f).

All archaeological and historic sites within the Section 106 Area of Potential Effects (APE) and all public and private parks, recreational facilities, and wildlife refuges within approximately 0.8 km (1/2 mile) of any of the project alternatives should be included. It is usually unlikely that such resources would be affected at greater distances; however, if there is an issue or question whether they would be affected, they should also be included.

Does the introduction to this discussion include:

- A listing of the parks, recreational facilities, wildlife refuges, and historic properties being addressed in the section?
- If a Section 4(f) resource type (i.e., a park, recreational facility, wildlife refuge, or historic property) does not exist in the project vicinity, does the discussion state such?
- The following statement, edited as appropriate for the types of resources involved:

The purpose of this discussion is to address Section 4(f) requirements relative to other park, recreational facilities, wildlife refuges, and historical properties in the project vicinity. As indicated below, none of the alternatives under consideration result in a Section 4(f) use of these other park, recreational, wildlife refuges, or historical resources. The discussion of each resource either documents 1) why the resource is not protected by the provisions of Section 4(f) or 2) if it is protected by Section 4(f), why none of the alternatives under consideration cause a Section 4(f) use by a) permanently incorporating land into the project, b) by temporarily occupying land that is adverse to the preservationist purposes of Section 4(f), or c) by constructively using land from the resource.

Does the description of **each** resource include:

- All of the applicable information outlined in [Attachment A](#)?
- Documentation of whether it is or is not protected by the provisions of Section 4(f)?

For each of the resources protected by Section 4(f), does the impact evaluation:

- Address the following for **each** alternative:
  - The facilities, functions, and/or activities potentially affected?
  - Accessibility?
  - Visual?
  - Noise?
  - Vegetation?
  - Wildlife?
  - Air Quality?
  - Water Quality?
- Conclude, based on the above discussion, whether any of the alternatives under consideration would cause a Section 4(f) use?

If there is not an impact in one of the above areas, does the evaluation state such with adequate supportive information?

Concluding discussions of Section 4(f) **must not use** phrases such as “therefore, Section 4(f) does not apply.” Section 4(f) is applicable to all US Department of Transportation actions.

**Rather, use:**

“Therefore, the provisions of Section 4(f) are not triggered,” or

“Therefore, the provisions of Section 4(f) do not come into play.”

*or*

“The proposed project [“preferred alternative” for final evaluations] will not cause a constructive use of [name of Section 4(f) resource] because the proximity impacts will not substantially impact the protected activities, feature, or attributes of [type of resource, e.g., park, historic site, future park].”

## SECTION 4(f) "CHECKLIST"

### ATTACHMENT C

#### SECTION 6(f)

Section 6(f) of the Land and Water Conservation Fund Act directs the Department of the Interior (National Park Service) to assure that replacement lands of equal value, location, and usefulness are provided as conditions to their approval of the Section 6(f) land conversion. Therefore, where a Section 6(f) land conversion is proposed, replacement land will be necessary. Regardless of the mitigation proposed, the draft and final Section 4(f) evaluations need to document the National Park Service's position on the Section 6(f) land transfer.